99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 99-682
Part 3

IMMIGRATION CONTROL AND LEGALIZATION AMENDMENTS ACT OF 1986

AUGUST 5, 1986.—Ordered to be printed

Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

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[To accompany H.R. 3810]

together with

DISSENTING VIEWS

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3810) to amend the Immigration and Nationality Act to revise and reform the immigration laws, and for other purposes, having considered the same, report those provisions of the bill within the jurisdiction of the Committee with amendments and recommend that the provisions as amended be agreed to.

The amendments (stated in terms of page and line numbers of the bill as reported by the Committee on the Judiciary) are as follows:

AMENDMENT NO. 1

Page 6, lines 4 and 5, strike out "(and, to the extent applicable, paragraph (7)(C))".

Page 6, lines 7 and 8, strike out "AND VALIDATION OF SOCIAL SECURITY ACCOUNT NUMBER".

Strike out "in the United States—" on page 6, lines 14 and 15, and all that follows down through page 7, line 7, and insert the following:

"in the United States by examining—

"(i) the individual's United States passport, or the individual's unexpired foreign passport

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if the foreign passport has an appropriate, unexpired endorsement of the Attorney General authorizing the individual's employment in the United States, or

"(ii) a document described in subparagraph (B) and a document described in subparagraph (C).

Page 7, line 9, strike out "clause (i) of this subparagraph" and insert "the preceding sentence".

Page 7, line 15, strike out "clause (i)" and insert "such sentence".

Strike out line 21 on page 10 and all that follows down through line 2 on page 12.

Page 160, after line 24, insert the following new subsection (and redesignate the succeeding subsection accordingly):

(b) FEASIBILITY STUDY OF SOCIAL SECURITY NUMBER VALIDATION SYSTEM.—The Secretary of Health and Human Services, acting through the Social Security Administration and in cooperation with the Attorney General and the Secretary of Labor, shall conduct a study of the feasibility and costs of establishing a social security number validation system to assist in carrying out the purposes of section 274A of the Immigration and Nationality Act, and of the privacy concerns that would be raised by the establishment of such a system. The Secretary shall submit to the Committees on Ways and Means and Judiciary of the House of Representatives and to the Committees on Finance and Judiciary of the Senate, within 2 years after the date of the enactment of this Act, a full and complete report on the results of the study together with such recommendations as may appear appropriate.

AMENDMENT NO. 2

Page 49, strike out lines 3 and 7, and redesignate the succeeding paragraphs accordingly.

Page 61, after line 14, insert the following new subsection:

(d) GAO REPORT.——

(1) REPORT ON CURRENT PILOT PROJECTS.—The Comptroller General shall—

(A) examine current pilot projects relating to the System for Alien Verification of Eligibility (SAVE) operated by, or through cooperative agreements with, the Immigration and Naturalization Service, and

(B) report, not later than October 1, 1987, to Congress and to the Commissioner of the Immigration and Naturalization Service concerning the effectiveness of such projects and any problems with the implementation of such projects, particularly as they may apply to implementation of the system referred to in subsection (c)(1).

(2) REPORT ON IMPLEMENTATION OF VERIFICATION SYSTEM. —The Comptroller General shall—

(A) monitor and analyze the implementation of such system,

(B) report to Congress and to the appropriate Secretaries described in subsection (c)(4)(D)(ii), by not later than April 1, 1989, on such implementation, and

(C) include in such report such recommendations for changes in the system as may be appropriate.

Page 61, line 7, strike "The amendments" and insert "Except as provided in paragraph (4), the amendments".

Page 61, after line 10, insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

(4) USE OF VERIFICATION SYSTEM NOT REQUIRED FOR A PROGRAM IN CERTAIN CASES.—

(A) REPORT TO RESPECTIVE CONGRESSIONAL COMMITTEES.—With respect to each covered program (as defined in subparagraph (D)(i)), each appropriate Secretary shall examine and report to the appropriate Committees of the House of Representatives and of the Senate, by not later than April 1, 1988, concerning whether (and the extent to which)—

(i) the application of the amendments made by subsection (a) to the program is cost-effective and otherwise appropriate, and

(ii) there should be a waiver of the application of such amendments under subparagraph (B).

(B) WAIVER IN CERTAIN CASES.—If, with respect to a covered program, the appropriate Secretary determines, on the Secretary's own initiative or upon an application by an administering entity and based on such information as the Secretary deems persuasive (which may include the results of the report required under subsection (d)(1) and information contained in such an application), that—

(i) the appropriate Secretary or the administering entity has in effect on alternative system of immigration status verification which—

(I) is as effective and timely as the system otherwise required under the amendments made by subsection (a) with respect to the program, and

(II) provides for at least the hearing and appeals rights for beneficiaries that would be provided under the amendments made by subsection (a), or

(ii) the cost of administration of the system otherwise required under such amendments exceed the estimated savings,

such Secretary may waive the application of such amendments to the covered program to the extent (by State or other geographic area or otherwise) that such determinations apply.

(C) BASIS FOR DETERMINATION.—A determination under subparagraph (B)(ii) shall be based upon the appropriate Secretary's estimate of—

(i) the number of aliens claiming benefits under the covered program in relation to the total number or claimants seeking benefits under the program,

(ii) any savings in benefit expenditures reasonably expected to result from implementation of the verification program, and

(iii) the labor and nonlabor costs of administration of the verification system,

the degree to which the Immigration and Naturalization Service is capable of providing timely and accurate information to the administering entity in order to permit a reliable determination of immigration status, and such other factors as such Secretary deems relevant.

(D) DEFINITIONS.—In this paragraph:

(i) The term "covered program" means each of the following programs:

(I) The aid to families with dependent children program under part A of title IV of the Social Security Act.

(II) Any State program under a plan approved under title I, X, XIV, or XVI of the Social Security Act.

(III) The unemployment compensation program under section 3304 of the Internal Revenue Code of 1954.

(ii) The term "appropriate Secretary" means, with respect to the covered program described in—

(I) subclauses (I) and (II) of clause (i), the Secretary of Health and Human Services; and

(II) clause (i)(III), the Secretary of Labor.

(iii) The term "administering entity" means, with respect to a covered program, the State agency responsible for the administration of the program in a State.

AMENDMENT NO. 3

Page 61, line 17, after "PROGRAM.—" insert "(1)".

Page 78, line 6, after "Government" insert "(but in any event including the program of aid to families with dependent children under part A of title IV of the Social Security Act)".

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Page 79, line 1, strike "assistance furnished" and insert "assistance (other than aid to families with dependent children) which is furnished".

Page 80, strike line 1 and insert the following:

"(I) Titles V, XVI, and XX, and parts B, D, and E of title IV, of the Social Security Act (and titles I, X, XIV, and XVI of such Act as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972).

Page 81, line 14, strike "(b) TABLE OF CONTENTS AMENDMENT.—" and insert "(2)".

Page 81, immediately before line 17, insert the following new subsection:

(b) CONFORMING AMENDMENTS.—(1) Section 402 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f)(1) For temporary disqualification of certain newly legalized aliens from receiving aid to families with dependent children, see subsection (h) of section 245A of the Immigration and Nationality Act.

"(2) In any case where an alien is disqualified from receiving aid under such subsection (h) is the parent of a child who is not so disqualified and who (without any adjustment of status under such section 245A) is considered a dependent child under subsection (a)(33), or is the brother or sister of such a child, subsection (a)(38) shall not apply, and the needs of such alien shall not be taken into account in making the determination under subsection (a)(7) with respect to such child, but the income of such alien (if he or she is the parent of such child) shall be included in making such determination to the same extent that income of a stepparent is included under subsection (a)(31).".

(2)(A) Section 472(a) of such Act is amended by adding at the end thereof (after and below paragraph (4)) the following new sentence:

"In any case where the child is an alien disqualified under section 245(h) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements of paragraph (4) (and the corresponding requirements of section 473(a)(1)(B)), with respect to that month, if he or she would have satisfied such requirements but for such disqualification.".

(B) Section 473(a)(1) of such Act is amended by adding at the end thereof (after and below subparagraph (C)) the following new sentence:

"The last sentence of section 472(a) shall apply, for purposes of subparagraph (B), in any case where the child is an alien described in that sentence.".

AMENDMENT NO. 4

Page 101, line 15, before the period insert the following:

and inserting in lieu thereof "before January 1, 1993,"

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I. Purposes and Scope

The purposes of the bill, as stated in the Report of the Committee on the Judiciary (H. Rept. 99–682, Part 1), are to "control illegal immigration to the U.S., make limited changes in the system for legal immigration and provide a controlled legalization program for certain undocumented aliens who have entered this country prior to 1982.

"The bill establishes penalties for employers who knowingly hire undocumented aliens, thereby ending the magnet that lures them to this country. It also revises the procedures for the temporary entry of foreign agricultural workers under the H–2 program and provides permanent residence to certain aliens performing field work with respect to perishable crops." (pp. 45–46)

The bill was sequentially referred to the Committee on Ways and Means for consideration of such portions of the bill and amendments that fall within the Committee's jurisdiction. Only the following portions of the bill are within the jurisdiction of the Committee on Ways and Means: the portion of section 101 that requires the Attorney General to establish a system of verifying the social security number of all individuals seeking employment in the United States; section 121, which requires the development of a system to verify the immigration status of individuals applying for benefits under the Aid to Families with Dependent Children (AFDC) program, the Supplemental Security Income (SSI) program, State unemployment compensation programs and the adult assistance programs in the territories; the portion of section 301 of the bill deleting the expiration date of the exclusion from Federal Unemployment Tax (FUTA) of wages paid to certain alien farmworkers; and the portion of section 201 that restricts the eligibility of certain newly legalized aliens for public assistance provided through programs within the Committee's jurisdiction.

II. Summary of Amendments

1. Social Security Number Verification

The Committee agreed to strike the provision in the bill that requires the Attorney General to establish a system to verify the social security numbers of all applicants for employment in the United States. The Committee amendment instead requires the Social Security Administration, in conjunction with the Attorney General and the Department of Labor, to conduct a study of the feasibility, costs and privacy implications of establishing a social security number validation system to help carry out the purposes of the Immigration and Nationality Act.

2. Legalization of Illegal Aliens and Eligibility for Certain Public Assistance Programs

The Committee made clarifying and technical changes to the provision in the bill that disqualifies certain newly legalized aliens from public assistance programs to make clear that the disqualification applies to the Aid to Families with Dependent Children (AFDC) program and not to other public assistance programs within the Committee's jurisdiction.

3. Verification of Immigration Status of Aliens Applying for Public Assistance Benefits

The Committee amended the provision in the bill that requires States and other agencies administering public assistance programs to establish an automated system of verifying the alien status of individuals applying for aid. The Committee amendment allows the respective Secretaries with administrative responsibilities over the programs to waive the requirement that a verification system be established if the Secretary finds that such a program would not be cost effective or that an alternative system is in place which is as timely and effective. In addition, the Supplemental Security Income program (SSI) would not be subject to the verification system requirement.

4. Federal Unemployment Tax (FUTA) on Wages Paid to Nonresident Farmworkers

The Committee amended that provision of the bill that makes permanent the current temporary exclusion from Federal Unemployment Tax (FUTA) of wages paid to certain foreign agricultural workers. The Committee amendment extends the current exclusion for five years, from December 31, 1987, to December 31, 1992.

In addition to the Committee's amendments, the Committee authorized the Chairman or his designee to request of the Committee on Rules that an amendment be made in order under the rule for consideration of H.R. 3810, which would disqualify the special agricultural workers who are granted permanent resident status under the bill from receipt of Aid to Families with Dependent Children (AFDC) in the same manner that the aliens being granted amnesty under the bill are disqualified from such benefits.

III. Explanation of Amendments

1. Social Security Number Verification (sec. 101)

Present Law.—The social security number is issued by the Social Security Administration as a filing system device, under which reports of workers' earnings can be maintained and benefits later calculated according to each worker's individual record. Citizens may be required by law to give their social security numbers only for a limited number of purposes—taxpayer identification, State drivers' licenses, receipt of certain public benefits. The Social Security Administration is prohibited from disclosing anyone's social security number, or wage data recorded on an individual's earnings record, except for limited governmental disclosure purposes set out in the statute (e.g. the parent locator service under the Child Support Enforcement program).

H.R. 3810.—Section 101 of H.R. 3810 requires the Attorney General to establish a system to verify the social security number of all applicants for employment, temporary or permanent, in the United States. The bill does not define the term "verify", and would apparently allow the use of social security taxpayer information to conduct the verification process, if deemed necessary. The provision further states that nothing in the bill should be construed as establishing a national identity card.

Committee on Ways and Means Amendment.—The amendment strikes the provision in the bill requiring the Attorney General to establish a verification system, and instead requires the Social Security Administration, in conjunction with the Attorney General and the Secretary of Labor, to conduct a study of the feasibility and costs of establishing a social security number validation system to help carry out the purposes of the Immigration and Nationality Act. The study would also analyze the privacy concerns that would be raised by the establishment of such a system. The study would be due in 2 years and be made to the Committee on Ways and Means and the Committee on the Judiciary in the House, and to the Committee on Finance and the Committee on the Judiciary in the Senate.

2. Verification of Immigration Status of Aliens Applying for Public Assistance Benefits (sec. 121)

Present Law.—Section 1137 of the Social Security Act requires that States establish an income and eligibility verification system (IEVS) for certain public assistance programs. Section 1137 was established by the Deficit Reduction Act of 1984 and was effective April 1, 1985. Although the Secretaries of the respective Departments may permit States to delay implementation, such delays may not extend beyond September 30, 1986.

Under IEVS, the State agencies administering AFDC, Medicaid, Unemployment Compensation, Food Stamps and the adult assistance programs in the territories (and SSA in the case of SSI) must request and make use of: (1) unearned income information available from the Internal Revenue Service; and (2) quarterly wage information. Independent verification of the unearned income information is required and recipient confidentiality must be protected.

The Aid to Families with Dependent Children (AFDC) program, the Supplemental Security Income (SSI) program and the Unemployment Compensation (UC) program each have policies for verifying the alien status of applicants. These are described below.

AFDC: To be eligible for AFDC, an individual must be a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law. Applicants must provide documentation of citizenship or immigration status according to procedures established by each State. To document alien status, States require that the applicant furnish various forms of INS documentation or a court order or INS correspondence which describes the individual's status. The quality control system reviews the accuracy of State eligibility decisions and verifies each factor of eligibility, including alien status.

SSI: To be eligible for SSI, an individual must have resided in the United States for 30 consecutive days and be a citizen, a national, or an alien lawfully admitted for permanent residence or permanently residing in the United States under color of law. The statute stipulates that eligibility may not be determined solely on the basis of declarations by the applicant. The HHS Secretary has authority to prescribe the documentation required to establish alien status. Relevant information must be verified from independent sources. To demonstrate alien status, an individual may provide an alien registration receipt card or other proof of lawful admission.

UC: Eligibility for unemployment benefits is determined under State law. In order to qualify for benefits, an unemployed person usually must have worked recently for a specific period of time and earned a specific amount of wages. In general, there are three major factors in determining eligibility: (1) the amount of recent employment and earnings; (2) demonstrated ability and willingness to seek and accept suitable employment; and (3) certain disqualifications related to a claimant's most recent separation from work or job offer refusal.

Federal law, section 3304(a)(14)(A) of the Federal Unemployment Tax Act, provides that unemployment compensation shall not be payable on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act).

In applying for unemployment benefits, individuals are asked if they are citizens of the U.S. or aliens. If they identify themselves as aliens, they are asked to supply documentation of their alien status in order to determine if they are permitted to work in the U.S. Individual States can verify the accuracy of the documentation in whatever manner they see fit.

H.R. 3810.—H.R. 3810 amends section 1137 of the Social Security Act, which requires that States establish an income and eligibility

verification system (IEVS) for certain public assistance programs. It would mandate that States require individuals, as a condition of eligibility for AFDC, Medicaid, Food Stamps, Unemployment Compensation and the adult assistance programs in the territories, to submit a declaration in writing of their citizenship status. If the individual is not a citizen of the U.S., alien registration documentation must be supplied (including the alien admission number) or such other documents as the State determines constitute reasonable evidence of satisfactory immigration status. Such a requirement would also be a condition of eligibility under the SSI program as administered by the Social Security Administration (SSA).

The State (and SSA in the case of SSI) would be required to use this documentation to verify, with the INS, the individual's immigration status through an automated system. If the declaration is supplied but the documentation is not, or the documentation is not verified, a State may not delay, deny, reduce or terminate eligibility until the individual has been given a reasonable period of time to demonstrate alien status.

H.R. 3810 provides for 100 percent Federal reimbursement for the costs of implementation and operation of this new requirement for each of the programs required to participate. The INS would be required to establish its automated verification system by October 1, 1987. States would be required to participate in the system beginning on October 1, 1988.

Committee on Ways and Means Amendment.—The Committee agreed to the mandatory alien verification system as proposed in H.R. 3810 with several modifications. The Secretaries of the respective Departments would be required to report by April 1, 1988 on whether it is cost effective to apply the requirement to the AFDC and Unemployment Compensation programs and the adult assistance programs in the territories. This report would also note whether and the extent to which waivers of the requirement should be granted. The new verification system would not apply to the Federal SSI program.

A Secretary would be permitted to grant a waiver of the application of the system to a program or its application in a State or other geographic area if there is in effect an alternative system that is as effective, accurate and timely or if the requirement is not cost effective. Any alternate system must, at a minimum, include the same hearings and appeals rights as provided in the bill.

To determine cost effectiveness, the Secretary would consider: (1) the number of aliens claiming benefits in comparison to the total seeking benefits; (2) any savings that can be attributed to implementation of the system; (3) labor and non-labor costs of administration; (4) whether the Immigration and Naturalization Service (INS) can provide timely and accurate information that is reliable; and (4) such other factors as the Secretary determines to be appropriate.

The General Accounting Office would also be required to report to Congress on the results of the INS alien verification pilot projects now underway and on implementation of the new verification system.

3. Legalization of Illegal Aliens and Eligibility for Certain Public Assistance Programs (secs. 201 and 204)

Present Law.—The AFDC, SSI and UC programs each have policies for determining the eligibility of lawfully admitted aliens. These are described below.

AFDC: To be eligible for AFDC, an individual must be a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law. Illegal aliens are ineligible for assistance. To determine eligibility and benefits of legally admitted (non-refugee) aliens, the income and resources of the sponsor are attributed to the alien during the 3 years after entry into the United States. Allowance is made for the needs of the sponsor and his family; the remainder is considered available to support the alien.

SSI: To be eligible for SSI, an individual must have resided in the United States for 30 consecutive days and be a citizen, national, or an alien lawfully admitted for peramanent residence or permanently residing in the United States under color of law. In the SSI program, the income and resources of a legally admitted alien's sponsor are considered in determining eligibility and benefits. After taking into account the needs of the sponsor and his family, the remainder of the sponsor's income is deemed to be available to the alien applicant for a 3-year period after entry into the United States. The requirement to consider the sponsor's income does not apply to: (1) aliens who become blind or disabled after entry into the United States; (2) refugees; and (3) persons who have been granted political asylum.

Unemployment Compensation: Eligibility for unemployment benefits is determined under State law. In order to qualify for benefits, an unemployed person usually must have worked recently for a specified period of time and earned a specified amount of wages. In general there are three major factors in determining eligibility: (1) the amount of recent employment and earnings; (2) demonstrated ability and willingness to seek and accept suitable employment; and (3) certain disqualifications related to a claimant's most recent separation from work or job offer refusal.

H.R. 3810.—The bill would establish a procedure for extending legal status to two groups of aliens. The first group (known as the "amnesty" group) consists of certain aliens who entered the United States unlawfully before January 1, 1982 and who have remained in the U.S. in a continuous, and unlawful status since that time. Under the bill, this group would be extended temporary resident status. After one year, this temporary status could be adjusted to that an alien lawfully admitted for permanent residence.

The second group (known as special agricultural workers) is comprised of certain seasonal agricultural workers. In this case, permanent resident status would be extended to aliens who have performed at least 60 man-days of seasonal agricultural services during the 12-month period ending May 1, 1986 and who are admissable as immigrants. This second group of aliens would be treated as permanent residents for all purposes and would be eligible for federal public assistance programs.

During the 5-year period beginning on the date an alien in the amnesty group is granted lawful temporary resident status, the alien would not be eligible for any needs-based program of financial assistance provided under Federal law. The term "program of financial assistance furnished under Federal law" is not defined. Instead, H.R. 3810 specifies that such programs would be identified by the Attorney General after consultation with other department heads.

This prohibition against receiving Federal financial assistance would *not* apply to Cuban-Haitian entrants or to the special agricultural workers. H.R. 3810 appears to deny newly legalized aliens eligibility for AFDC and may also prohibit participation in the Title IV-E foster care program. The bill does not appear to restrict the alien's access to Title IV-B child welfare services or Title XX social services since these are not generally considered to be programs of financial assistance. In addition, it does not appear to restrict eligibility for unemployment compensation because such benefits are provided under State law.

The Attorney General *may* allow Federal assistance to be extended to recently legalized aliens because of age, blindness, disability or medical conditions that require treatment in the interest of public health or because of serious illness or injury. However, according to the House Judiciary Committee report, this is not intended to authorize automatic access to SSI, Medicaid or Medicare by the newly legalized aliens.

H.R. 3810 authorizes a program of Federal financial assistance to reimburse States for the cost of providing State or locally-funded assistance to the newly legalized aliens during the 5-year period beginning on the date the alien is granted temporary resident status. It also permits State and local governments to limit benefits to newly legalized alilens.

Subject to the amounts provided in advance in appropration Acts, the bill provides for 100 percent reimbursement of these costs. Programs of public assistance eligible for reimbursement are defined as "programs existing in a State or local jurisdiction which . . . provide for cash, medical, or other assistance designed to meet the basic subsistence needs of individuals. . . ."

The authority to appropriate funds for State legalization assistance is effective for FY 1987 and each of the four succeeding fiscal years.

Committee on Ways and Means Amendment.—The Committee amendment clarifies that for purposes of public assistance programs under the jurisdiction of the Committee on Ways and Means, the 5-year disqualification for the amnesty group applies only to the AFDC program and only with regard to the newly legalized aliens. It does not apply to the following programs: child welfare services, child support enforcement, foster care and adoption assistance, SSI, or the social services block grant.

In addition, the Committee amendment would clarify that the disqualification does not apply to U.S. citizen children in families that are otherwise disqualified under this section. The amendment would also prescribe the method for treating the income and needs of the disqualified members when determining the eligibility of the U.S. citizen child.

4. Federal Unemployment Tax (FUTA) on Wages Paid to Nonresident Farmworkers (sec. 301)

Present Law.—Under the Immigration and Nationality Act, residents of foreign countries who do not intend to abandon such residency may be admitted to the United States to perform agricultural labor for a temporary period of time. The workers are admitted to the U.S. pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act. In general, under those sections of the Act, the workers are admitted to the U.S. only after the Department of Labor certifies that there are no domestic workers available to perform the labor. These workers are known as H-2 workers and must return to their native countries upon the completion of their work.

Under section 3306(c)(1)(B) of the Internal Revenue Code, wages paid to nonresident farmworkers admitted to the U.S. under the above Act are not subject to Federal Unemployment Tax (FUTA). This exemption from FUTA tax effectively exempts these wages from State unemployment taxes. The exemption from the FUTA tax expires on December 31, 1987.

H.R. 3810.—Section 301 amends the Internal Revenue Code to make the exclusion from FUTA tax permanent.

Committee on Ways and Means Amendment.—The Committee amendment would extend the current exclusion from the FUTA tax for 5 years, through December 31, 1992.

The H-2 program, which allows foreign workers to come into the U.S. to perform labor when domestic workers cannot be found, will be greatly expanded under this bill. The major concern expressed about the exclusion is that it provides an incentive to seek H-2 workers at the expense of domestic workers.

Under the bill as reported, the President must report to the Congress within two years of the date of enactment on the operation of the expanded H-2 program authorized under the bill. This report would include recommendations on removing the discincentives to hiring domestic workers. By extending the exclusion through 1992, the Committee on Ways and Means will have the opportunity to examine the exclusion in light of the expanded H-2 program and with the benefit of the President's report.

IV. Vote of the Committee and Other Matters To Be Discussed Under the Rule of the House

In compliance with the subdivision (B) of clause (2)(l)(2) of Rule XI of the Rules of the House of Representatives, the Committee states that the bill was approved by voice vote.

In compliance with the subdivision (A) of clause (2)(l)(3) of Rule XI, the Committee reports that the amendments are consistent with the oversight findings of the Committee on Ways and Means and the explanations of the amendments contained in the section of this report.

In compliance with the subdivision (D) of clause (2)(l)(3) of Rule XI, the Committee states that no oversight findings or recommendations have been submitted by the Committee on Government Operations with respect to the subject matter contained in the bill.

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In compliance with the clause (2)(l)(4) of Rule XI, the Committee estimates that enactment of the bill will have no inflationary impact on the economy.

In compliance with the subdivision (B) of clause (2)(l)(3) of Rule XI, the Committee states that the bill does not increase tax expenditures and that a discussion of budget authority is contained in the report of the Congressional Budget Office.

In compliance with clause 7(a) of Rule XIII, the following statement is made relative to the budget effects of the provisions of H.R. 3810, as reported by the Committee.

With respect to the provisions contained in the bill, the Committee states that it agrees with the estimates of the Congressional Budget Office. These estimates are presented for fiscal years 1986 to 1991 for the unified budget.

In compliance with the subdivision (C) of clause (2)(l)(3) of Rule XI, the Committee states that the Congressional Budget Office has examined H.R. 3810, as reported by the Committee and has submitted the following statements:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 1, 1986.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared this cost estimate for amendments to H.R. 3810, the Immigration Control and Legalization Amendments Act of 1986, as ordered reported by the House Committee on Ways and Means on July 30, 1986. H.R. 3810 was ordered reported by the House Committee on the Judiciary on June 25, 1986.

This estimate provides the spending impacts of the Committee on Ways and Means amendments to H.R. 3810. The original CBO estimate for H.R. 3810, as reported by the Committee on the Judiciary, is attached to provide background information. The table below shows the original estimate of H.R. 3810's impact on spending, the Committee on Ways and Means changes to spending, and the resulting estimated spending, revenue, and federal deficit totals for the bill as amended.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

[By fiscal year, in millions of dollars]

	1986	1987	1988	1989	1990	1991
Judiciary bill:						
Required budget authority/estimated authorization level	434	655	1,170	1,885	2,201	2,277
Estimated outlays		480	819	1,779	2,348	2,475
Ways and Means:						
Required budget authority/estimated authorization level		(1)	−130	−135	−136	−136
Estimated outlays		(1)	−130	−135	−136	−136
Total spending:						
Required budget authority/estimated authorization level	434	655	1,040	1,750	2,065	2,141
Estimated outlays		480	699	1,644	2,212	2,339

ESTIMATED COST TO THE FEDERAL GOVERNMENT—Continued

[By fiscal year, in millions of dollars]

	1986	1987	1988	1989	1990	1991
Estimated revenues		70	166	54	54	
Net budget impact: estimated net increase or decrease (—) in the deficit		410	533	1,590	2,158	2,339

[1] Less than $500,000.

The Committee on Ways and Means reported several amendments to H.R. 3810. The first would strike the requirement for a system to verify the social security account number of all applicants for employment in the United States. The new provision would instead require the Social Security Administration, in conjunction with the Attorney General and the Secretary of Labor, to conduct a study of the feasibility and costs of establishing such a system and report to the Congress in two years. CBO's previous cost estimate for H.R. 3810 estimated the cost for social security account number verification to be approximately $130 million annually, beginning in fiscal year 1988. These costs would be avoided by this amendment, although there would be some costs for the required study. Due to uncertainty about the scope of such a study, CBO cannot estimate these costs.

The System for Alien Verification of Eligibility (SAVE), which would require a number of federal benefit programs to check with the Immigration and Naturalization Service as to the resident status of aliens applying for program benefits, was also amended. The amendments would permit a program or jurisdiction not to use SAVE if waivers were granted by Department Secretaries. Waivers could be given if alternative verification systems were found to be as effective or if the administrative costs of SAVE exceeded any estimated savings. Without knowing more about SAVE and the extent to which waivers might be granted, the CBO estimate assumed that savings and costs would be approximately offsetting. If the cost effectiveness of SAVE could be measured accurately and waivers granted accordingly, however, these amendments would be likely to result in federal budgetary savings.

In addition, the requirement to use SAVE to verify the status of persons applying for Supplemental Security Income (SSI) benefits was removed. CBO's estimate of H.R. 3810 included estimated net costs of $5 million in 1989 and $6 million in 1990 and 1991 for the use of SAVE in SSI. These costs would be avoided by the amendment.

The provision of H.R. 3810 that would permanently exempt employers from paying Federal Unemployment Tax Act taxes on wages paid to H–2 agricultural workers was amended to expire on January 1, 1993.

Finally, the Committee added a number of programs to the list of those that legalized aliens would not be precluded from receiving for five years. CBO estimates that this amendment would not have a significant budgetary effect.

If you wish further details on this estimate, please call me or have your staff contact Janice Peskin.

With best wishes,
Sincerely,

RUDOLPH G. PENNER, *Director.*

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 15, 1986.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 3810, the Immigration Control and Legalization Amendments Act of 1986.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

RUDOLPH G. PENNER, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 3810.

2. Bill title: Immigration Control and Legalization Amendments Act of 1986.

3. Bill status: As ordered reported by the House Committee on the Judiciary, June 25, 1986.

4. Bill purpose: H.R. 3810 makes major revisions and reforms to the Immigration and Nationality Act. Title I focuses on the control of illegal immigration. Part A of this title makes the employment of unauthorized aliens unlawful and establishes a special counsel to investigate and prosecute immigration-related unfair employment practices. Part B authorizes additional appropriations for the Immigration and Naturalization Service (INS) and the Executive Office of Immigration Review (EOIR) for fiscal years 1986 and 1987 to carry out the provisions of this act and calls for increased enforcement and adjudication activities. This part also makes it unlawful to transport any unauthorized alien into the United States and authorizes an appropriation of $35 million for an immigration emergency fund. Part C requires a system to verify the immigration status of aliens applying for benefits under certain programs, and establishes procedures and provides for federal reimbursement of states' costs to implement and operate this system.

Title II of the bill governs the legalization of unauthorized aliens already in the country. It empowers the Attorney General to adjust the status of unauthorized aliens to that of lawfully admitted aliens eligible for temporary residence if they apply, meet certain conditions, can establish that they illegally entered the United States prior to January 1, 1982, and have been residing here continuously since then. After one year in temporary status, the Attorney General can adjust their status to that of permanent resident. In addition, it limits for a period of five years federal program benefits for which the unauthorized aliens granted resident status are eligible, and authorizes appropriations for fiscal years 1987 through

1991 to reimburse states for the costs of providing public assistance to legalized aliens and educational services to legalized alien children.

Title III reforms existing law regarding legal immigration. Part A amends those provisions of the Immigration Act relating to nonimmigrant workers (H–2 workers), provides legal resident status to certain agricultural workers, amends the procedures for obtaining approval of H–2 petitions, allows the Secretary of Labor to charge fees to recover the cost of processing applications for certification, and authorizes a program designed to recruit domestic workers for temporary labor. Part B changes certain numerical limitations, changes requirements for foreign students, amends the immigration laws regarding G–4 special immigrants, and establishes a visa waiver pilot program for certain visitors.

Titles IV and VI require a number of reports to the Congress, and Title V provides for assistance to state and local governments for the costs of incarcerating illegal aliens and certain Cuban nationals.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1986	1987	1988	1989	1990	1991
Direct spending provisions:						
Required budget authority:						
Function 550		1	44	184	261	277
Function 570						
Function 600		(1)	29	120	154	171
Function 650						
Estimated outlays:						
Function 550		1	44	184	261	277
Function 570		(1)	(1)	(1)	5	16
Function 600		8	115	257	321	337
Function 650		(1)	3	18	38	55
Amounts subject to appropriation action:						
Estimated authorization level:						
Function 500		25	25	26	27	27
Function 600		72	630	1,132	1,332	1,395
Function 750	434	557	442	423	427	407
Estimated outlays:						
Function 500		25	25	26	27	27
Function 600		4	177	866	1,268	1,352
Function 750		442	455	428	428	411
Total spending: Required budget authority/estimated authorization level	434	655	1,170	1,885	2,201	2,277
Estimated outlays		480	819	1,779	2,348	2,475
Estimated revenues		70	166	54	54	
Net budget impact: Estimated net increase or decrease (−) in the deficit		410	653	1,725	2,294	2,475

[1] Less than $0.5 million.

Basis of Estimate:

Control of Illegal Immmigration (Functions 550, 600 and 750.) Title I of the bill authorizes additional appropriations for the INS of $422 million in fiscal year 1986 and $419 million in fiscal year

1987, and for the Executive Office of Immigration Review of $12 million in 1986 and $15 million in 1987. The funds authorized for the INS are intended to provide improved services, enhanced community outreach and inservice training of personnel. This authorization would provide for enhanced enforcement, including enforcement of employer sanctions, and additional processing of applications and adjudication, primarily resulting from the legalization and agricultural worker programs outlined by the bill. Because this estimate assumes enactment on approximately October 1, 1986, it assumes tht none of the funds authorized for fiscal year 1986 will be appropriated, and therefore those authorizations will result in no outlays. While this title does not authorize appropriations for those agencies after 1987, CBO estimates that the additional activities required by this bill will result in additional costs of approximatley $220 million in 1988, declining to $150 million in 1991.

This title also requires the appointment of a special counsel within the Department of Justice for Immigration-Related Unfair Employment Practices. The special counsel would be responsible for receiving and investigating complaints of such practices and bringing them, when appropriate, before specially trained administrative law judges. Based on information from the Immigration and Naturalization Service and the National Labor Relations Board, CBO expcts this process to cost $2 million in 1987 and 1988 and $3 million in later years. The bill does not, however, authorize appropriations for this activity. Also required would be a system to validate the Social Security account numbers of all individuals employed in the United States. Employers would be required to submit each account number and receive a validation code. CBO estimates that approximately 80 million numbers would be submitted for validation each year. Based on information from the Social Security Administration, CBO estimates that this system would cost about $130 million each year, beginning in 1988, with slightly higher costs in the first year. Both of these estimates are highly uncertain.

Title I authorizes an appropriation of $35 million for an immigration emergency fund, to be used for increased enforcement of the nation's immigration laws and for providing assistance to states and localities facing major immigration problems. CBO does not show an increase in outlays as a result of this fund, because spending is prohibited unless the President declares an immigration emergency, and it is impossible to predict when, or whether, such a declaration would be made.

The bill requires that the immigration status of aliens applying for a number of federal benefit programs be verified with the INS beginning no later than October 1, 1988. All state costs would be fully reimbursed by the federal government. CBO estimates that this provision would have no significant budgetary effect in 1987 or in 1988, would reduce outlays by $25 million in 1989, and by $20 million a year thereafter. These savings are very uncertain. The only tests of the verification system have been for the Unemployment Compensation program in a few states, where savings were found to be modest. The CBO estimate for the Unemployment Compensation program is based on these test results. Savings for the Aid to Families with Dependent Children, Medicaid, and Food

Stamp programs are based on the number of cases found to be in error because of alien status, as reported in the quality control data systems. This estimation procedure underestimates savings. Costs are based on information provided by the INS and assume in most cases a statewide system of checking. These costs are underestimated because some states with county-run programs would have higher costs. Also, there is expected to be considerable adjudication, because the INS data are out-of-date and incomplete; this cost cannot be estimated.

The following table summarizes the costs of Title I:

ESTIMATED BUDGET IMPACT—CONTROL OF ILLEGAL IMMIGRATION (FUNCTIONS 550, 600, AND 750)

[By fiscal year, in million of dollars]

	1986	1987	1988	1989	1990	1991
Authorizations:						
Immigration and Naturalization Service [1]	422	419				
Executive Office of Immigration Review [1]	12	15				
Immigration emergencies		35				
Status verification [2]		([3])	([3])	−15	−10	−10
Other estimated costs [4]		2	351	317	311	286
Total estimated authorizations	434	471	35	302	301	276
Estimated outlays		371	364	297	292	270

[1] It is assumed that enactment of this bill will not allow time for funds to be appropriated in fiscal year 1986; therefore, no outlays are shown for the 1986 authorizations.

[2] The bill authorizes such sums as may be necessary for the INS. This estimate also includes CBO's estimate of costs and savings in functions 550 and 600.

[3] Less than $0.5 million.

[4] This amount reflects estimated costs for which no authorizations are provide in the bill. These costs are largely for INS enforcement and processing activities after 1987, and for the required system for validating an individual's Social Security number.

Legalization (Functions 550, 570, 600, and 650).—By legalizing some unauthorized aliens currently in the United States, Title II would increase federal outlays in functions 550 (Health, including Medicaid), 570 (Medicare), 600 (Income Security), and 650 (Social Security). First, the provisions that legalize unauthorized aliens would entitle the aliens to receive benefits after five years from a number of federal assistance programs. Such programs as Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Medicaid, and Food Stamps now require recipients to be citizens or have residents status. Because the provisions of the bill preclude most aliens granted residents status from receiving any program of federal financial assistance based on "financial need," Medicaid, and Food Stamps for a period of five years, federal outlays for these programs generally do not begin until fiscal year 1992, beyond our estimating period. An exception is made in the bill for the aged, blind, and disabled and for medical assistance provided to children under 18 years of age, pregnant women, and those in need of emergency services. Hence, the cost estimate does show increase federal outlays for SSI, Medicaid, and Food Stamps beginning in fiscal year 1987. In addition, in other programs that are not based on "financial need," such as Disability Insurance (DI), some legalized aliens who would not have collected benefits would now be expected to do so.

Second, Title II provides an authorization for the appropriations of such sums as may be necessary in fiscal years 1987 through 1991 to reimburse states for 100 percent of the costs of public assistance

to eligible legalized aliens. Aliens granted resident status are eligible for five years. The bill also authorize payments over the same five-year period to state education agencies to assist in providing educational services for the legalized alien children in elementary and secondary schools.

Added federal program outlays as a result of legalizing unauthorized aliens under Title II of the bill are shown in the table below. These added outlays are estimated to be $8 million $272 million, $1,143 million, $1,646 million, and $1,777 million in fiscal years 1987 through 1991, respectively.

This estimate is very uncertain, particularly because of the three factors discussed below. First, this estimate includes federal outlays for the grants to states that are large enough to cover the full estimated costs to states for public assistance to the legalized aliens and education services for the legalized alien children. Less than the full costs, however, might be appropriated. Second, this estimate depends importantly on the number of unauthorized aliens in the United States, for which little hard evidence exists. It has been generally accepted that there were 3 million to 6 million unauthorized aliens in the United States in the late 1970s. The CBO estimate uses 4.5 million aliens in 1977, the midpoint of the range. Even less is known about how the numbers of unauthorized aliens in the United States may have changed in recent years, although anecdotal evidence indicates there has been some net inflow. Based on conversations with persons knowledgeable about the unauthorized alien population, CBO assumes a net increase of 150,000 in each year beginning in 1980. In 1986, then, CBO assumes that there are 5.6 million unauthorized aliens in the United States.

Of the 5.6 million unauthorized aliens, CBO estimates that 40 percent have resided continuously in the United States since January 1, 1982, making them eligible for legalization under this bill. This figure is based on percentages from Immigration and Naturalization Service (INS) studies, which have been adjusted upward to reflect the assumption that some unauthorized aliens are aware of the possibility of legalization because of legislative activity in recent years. Among those eligible, we assume—again based on conversations with experts—that approximately 60 percent would apply for and be granted resident status. The resulting number of unauthorized aliens who would be granted resident status is estimated to be 1.4 million.

Finally, the number of legalized aliens who would qualify for government assistance programs is uncertain. In large part, this reflects a lack of data on the economic and demographic characteristics of unauthorized aliens—for example, their employment status and wages or their age and martial status. In developing the estimates of numbers of legalized aliens who would receive benefits from government programs, CBO assumes that the unauthorized aliens would have to show at the time of their application for residency that they had not been nor would they be likely to be "public charges," as specified in Section 212 of the Immigration and Nationality Act. However, the bill would allow resident status to an unemployed alien if that alien could demonstrate a history of employment without reliance on public cash assistance. Thus, at the time the aliens would become residents, most would presum-

ably be working. Over time, however, they could be expected to resemble the U.S. population as to receipt of benefits from entitlement programs. By 1990, CBO assumes that the percentage of unauthorized aliens receiving government benefits would resemble that of the U.S. population for similar age, sex, ethnic origin, and income groupings. In the interim years, CBO assumes that a growing fraction of potential eligibles would in fact receive benefits: 5 percent in 1987, 30 percent in 1988, and 75 percent in 1989.

In addition to the general basis of these estimates, each individual program estimate entailed specific procedures and assumptions. The details for each program are discussed below.

The SSI program provides benefits to aged, blind, and disabled persons. Benefit levels are set by the federal government, which pays the full cost of the program, although states may supplement federal benefits and most do. Under this bill, legalized aliens would be eligible to receive SSI upon confirmation of residency status. Costs to the federal government are estimated to rise from an insignificant amount in 1987 to $116 million in 1991. CBO's cost estimate is based on a recipiency rate of 0.90 percent of the alien population for the aged and 0.94 percent for the blind and disabled. The recipiency rate for the aged is based on Census data which show 1.80 percent of illegal aliens to be aged, an assumed income eligibility of 100 percent, and a participation rate for the eligible of 50 percent. The recipiency rate for the blind and disabled is based on the current recipiency rate for the population. The aliens are estimated to receive the full SSI basic benefit, or $4,131 in 1987.

Food stamps are issued to eligible low-income households. Benefits (and approximately one-half of state administrative expenses) are funded by the federal government. As with AFDC, most legalized aliens could not receive food stamps until 1992, although legalized aliens who received SSI could also receive food stamps. Food stamp costs are estimated to be insignificant in 1987, rising to $6 million in 1991. This figure is based on the estimated number of aliens added to the SSI rolls and a food stamp participation rate of 45 percent, the estimated current rate for SSI recipients. Average annual benefits per person in 1987 are estimated to be $444.

The Unemployment Compensation program provides weekly cash benefits to workers who are involuntarily unemployed and who have had at least a moderate amount of work experience during a one-year period prior to losing their jobs. Under this bill, Unemployment Compensation costs for newly legalized alien workers are estimated to rise from $3 million in 1987 to $115 million in 1991. This estimate is based on several assumptions for newly legalized alien workers. Consistent with recent labor force data on young Hispanics, CBO assumes that 80 percent of these workers would participate in the labor force, a higher rate than the average of the U.S. population. Because most probably work in service industries, which are less prone to cyclical unemployment, and because even low-wage jobs in this country probably appear attractive when compared to those in the country of origin, CBO assumes that the newly-legalized population would have unemployment rates one percentage point lower than those in effect for the rest of the U.S. population. Further, assuming, as some evidence indicates, that these individuals' earnings are about 60 percent of those of compa-

rable U.S. production or nonsupervisory workers (and assuming a 50 percent wage replacement rate), CBO estimates that the average weekly benefit amount for these workers would be about $97 in 1987, one-fourth lower than that for the remainder of the population.

The Disability Insurance (DI) program covers persons who are totally disabled (whose disability is expected to last at least 12 months or result in death) and who have sufficient work histories in covered employment. Costs in DI of the legalized aliens are estimated to rise from an insignificant amount in 1987 to $54 million in 1991. Because the evidence indicates that unauthorized aliens are relatively young on average, they would be less likely to be disabled than the U.S. population as a whole. Also, because they have been in the United States for relatively short periods of time, they might not qualify for DI, which requires for most workers covered earnings during 20 out of the last 40 calendar quarters. For all of these reasons, their DI recipiency rate would be less than that of the U.S. population; CBO estimates the rate to be about 0.1 percent in 1987, with this rate rising to about 0.7 percent in 1991. Their benefit levels would also be less, reflecting lower than average wages and shorter work histories. The CBO estimates average benefits to be about $4,300 in 1991.

The Medicaid program provides health care coverage to recipients of AFDC and SSI and to others who may qualify as "medically needy." Under the bill, Medicaid would be provided to aliens on SSI and to children, pregnant women, and emergency cases who could meet Medicaid's eligibility criteria. Costs are estimated to rise from $1 million in 1987 to $231 million in 1991. Medicaid beneficiaries are based on numbers of aliens estimated to receive SSI and numbers estimated to receive AFDC who would be children, pregnant women, or in need of emergency services, with some increase for the medically needy. Benefits are current averages per SSI or AFDC enrollee, adjusted to 1987 and later.

Costs in the Medicare program, which provides health care coverage to the aged and disabled covered by Social Security, would rise to $16 million by 1991. These costs would be for those aliens who would receive DI.

Reimbursements to states for public assistance costs are estimated to cost $2 million in 1987 and $527 million in 1991. These reimbursements are based on costs in state and local General Assistance (GA) programs. These programs are fully-funded by states and localities and provide benefits to low-income persons and families who do not qualify for the federally-funded cash welfare programs. GA provides both cash payments and medical coverage. Two groups of aliens would qualify for GA: those who would never be eligible for federal welfare programs (for example, low-income working two-parent families with children, and non-aged, non-disabled couples or single persons without children) and those who would be made ineligible for AFDC by the bill for a period of five years.

Among the first group, CBO estimates that 1.3 percent of the aliens would receive an average annual cash GA benefit of $1,725 in 1987. This estimate is based on current recipiency rates and benefit levels in GA programs. Among the second group, CBO's estimate for families who would have qualified for AFDC is based on

the assumption that 52 percent of the aliens given resident status would be married men and women, reflecting demographic data on unauthorized aliens, which show about 79 percent to be adults and the majority to be young and male, and marital rates in the United States. Of the married men and women, 4.5 percent of those not of Spanish origin and 17.0 percent of those of Spanish origin are estimated to receive AFDC. These rates of AFDC recipiency are those which currently exist in the program. The average annual cash benefit for these alien families is estimated to be $2,150 in 1987. These aliens would also receive medical GA. Their average annual medical benefits are estimated to be $715 in 1987.

Reimbursements to states for education services are estimated to cost $1 million in 1987 and $712 million in 1991. This cost assumes a full appropriation of funds to cover total costs of educating the eligible alien children. Of the total legalized alien population, 15 percent—or about 200,000—are estimated to be children of school age. Average per pupil costs were $3,086 during the 1983–1984 school year, the latest data available. CBO assumes that this 1983–1984 per pupil cost would be used in calculating reimbursements to the states in 1987. This is consistent with current procedures in Chapter I education aid to disadvantaged children. Outlays reflect a spending pattern of 2 percent in the first year, 77 percent in the second year, and 21 percent in the third year.

The table on the following page summarizes the estimated costs associated with Title II.

Agricultural Worker Provisions (Functions 500, 550, 600, and 650).—Title III of the bill provides for the availability of temporary agricultural workers and for the legalization of certain illegal alien workers recently employed in agriculture. CBO estimates the agricultural worker provisions would increase federal outlays by $56 million in 1987, rising to $324 million by 1991.

The bill authorizes such sums as may be necessary to enable the Department of Labor (DOL) to make determinations and issue certifications under a new H-2A worker program, targeted at agriculture. The H-2 worker program allows foreign workers to enter the United States temporarily to work in jobs for which employers cannot find domestic workers. In making this estimate, it is assumed that the combination of employer sanctions and a strengthened INS would act as effective deterrents to the hiring of illegals to perform agricultural labor. It is further assumed that the H-2A worker program would expand to fill the otherwise unmet demand for agricultural labor, thereby increasing the administrative costs of DOL.

According to staff from the Department of Agriculture (USDA), if employer sanctions were effectively enforced, growers would need between 250,000 and 500,000 guest workers. Because the CBO assumes that about 250,000 illegal alien workers in agriculture would be legalized under the special agricultural worker provision discussed below, the number of H-2A workers could range up to 250,000 guest workers. The DOL is currently receiving about 800 applications per year for H-2 agricultural workers, and each application requests an average of 25 workers. Administrative costs were about $3 million in 1985, or $3,750 per application, for the ag-

ricultural part of the H-2 worker program, and they are estimated to increase by about 5 percent per year.

Currently, those illegal immigrants who work in agriculture are located primarily in the West and Southwest, while most H-2 workers are employed in the East. Since western agricultural concerns tend to be far larger than eastern, it is assumed that future applications would be for about 40 workers on average. Using a projected cost per application of about $4,100 in 1987, CBO estimates that 1987 administrative costs would be $13 million. This figure is based on an estimated 3,125 applications: 125,000 guest workers—the midpoint of the estimated range noted above—and an estimated 40 workers per application.

ESTIMATED BUDGET IMPACT—LEGALIZATION (FUNCTIONS 550, 570, 600, AND 650)

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
SSI (function 600):					
Required budget authority	(1)	23	83	103	116
Estimated outlays	(1)	23	83	103	116
Food stamps (function 600):					
Estimated authorization level	(1)	1	4	6	6
Estimated outlays	(1)	1	4	6	6
Unemployment compensation (function 600):					
Required budget authority					
Estimated outlays	3	47	88	116	115
Disability insurance (function 650):					
Required budget authority					
Estimated outlays	(1)	3	18	38	54
Medicaid (function 550):					
Required budget authority	1	39	156	218	231
Estimated outlays	1	39	156	218	231
Medicare (function 570):					
Required budget authority					
Estimated outlays	(1)	(1)	(1)	5	16
Reimbursement of State public assistance costs (function 600):					
Estimated authorization level	2	96	370	507	527
Estimated outlays	2	96	370	507	527
Payments to States for education costs (function 600):					
Estimated authorization level	70	516	690	717	754
Estimated outlays	1	63	423	653	712
Subtotal: Direct spending provisions:					
Required budget authority	1	62	239	321	347
Estimated outlays	4	112	345	480	532
Subtotal: Amounts subject to appropriation action:					
Estimated authorization level	72	613	1,064	1,230	1,288
Estimated outlays	4	160	798	1,166	1,245
Total:					
Estimated authorization level/required budget authority	73	675	1,303	1,551	1,635
Estimated outlays	8	272	1,143	1,646	1,777

[1] Less than $0.5 million.

In addition, the bill requires the federal government to establish a program to (a) recruit domestic workers to perform services that might otherwise be performed by temporary foreign nonimmigrant laborers, and (b) monitor the terms and conditions under which temporary agricultural workers are employed in the United States.

A total of $10 million per year beginning in 1987 is authorized for these purposes.

The estimated budget impact of the temporary agricultural worker program in H.R. 3810 is summarized in the following table.

ESTIMATED BUDGET IMPACT—TEMPORARY AGRICULTURAL WORKERS (FUNCTION 500)

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
H–2A Worker Program:					
Estimated authorization level	13	13	14	15	15
Estimated outlays	13	13	14	15	15
Domestic worker recruitment:					
Authorization level	10	10	10	10	10
Estimated outlays	10	10	10	10	10

The bill's provision for special agricultural workers would establish legal status for agricultural workers who could demonstrate that they had worked at least 60 days in agricultural employment during the period from May 1, 1985 to May 1, 1986. Since these workers would be provided with legal resident status, federal outlays for entitlement program benefits would rise by an estimated $5 million in 1987 and $295 million in 1991.

Workers covered under the special agricultural worker provision are estimated to total about 250,000. This figure was derived by adjusting the number of farm workers upward for turnover during the year and downward for the 60-day work requirement. Further, it is assumed that about 25 percent of farm workers are illegal aliens and that 60 percent would come forward to apply for and be accepted as legal residents. CBO was unable to determine whether the provisions designed to allow additional special agricultural workers beginning in 1990 in the event of a worker shortage would increase the number granted resident status in the future.

Most of the additional entitlement spending would occur in means-tested benefit programs such as AFDC, Medicaid, SSI, and Food Stamps, although the program with the largest increase would be Unemployment Compensation. Unemployment Compensation benefits are estimated to increase from $5 million in 1987 to $61 million by 1991. These estimates are based on the assumptions that unemployment rates of agricultural workers are about 75 percent higher than the national average, agricultural wages are lower than overall average wages, and that the average weekly benefit would be about $97 in 1987. AFDC costs are expected to increase as the number of recipient families is estimated to rise by about 14,000 by 1990. Similarly, the number of SSI recipients is estimated to increase by about 4,600 persons by 1990. Medicaid outlays associated with the increases in AFDC and SSI beneficiaries are estimated to rise by about $5 million in 1988 and $53 million by 1991.

Title III also specifies that a commission would be established that would examine the impacts of the special agricultural worker provisions on wages, working conditions, and issues. The CBO estimates that the costs of the commission, including personnel and

other non-labor expenses, would be about $2 million annually over the next five years.

The table on the following page summarizes the estimated costs associated with the special agricultural worker provisions.

Reports to the Congress (Function 750).—Title IV requires the preparation of a number of Presidential reports. These include a comprehensive triennial report on admissions under the Immigration and Nationality Act and the impact of those admissions, reports on unauthorized alien employment and discrimination in employment, biennial reports on the implementation of the temporary agricultural worker program, two reports on the legalization program and its impact, and a report on the visa waiver pilot program. Title VI requires the Attorney General to prepare a report for the Congress on the resources required by the INS to carry out its enforcement and service responsibilities. The cost of these reports is assumed to be included in the amounts authorized for the INS.

In addition, the bill requires the Civil Rights Commission to monitor the implementation and enforcement of the employer sanctions provisions and investigate any allegations of unlawful discrimination due to these provisions. The Commission is to report as to whether implementation and enforcement of these provisions has resulted in a pattern of unlawful discrimination. Implementation of this provision is expected to cost approximately $1 million each year.

State and Local Assistance for Incarceration of Illegal Aliens and Certain Cuban Nationals (Function 750).—Title V would require the Attorney General to reimburse state and local governments for the costs of imprisoning these aliens and Cuban nationals convicted of felonies and for their pre-trial and post-trial detention. Appropriations are authorized for such sums as are neccessary to carry out this provision. CBO estimates that reimbursements would be required for approximately 6,000 prisoners at an average cost of about $14,000 per prisoner-year in 1987, rising to $17,000 per year by 1991.

ESTIMATED BUDGET IMPACT—INCARCERATION COSTS (FUNCTION 750)

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
Estimated authorization level	85	90	95	100	105
Estimated outlays	70	90	95	100	105

Revenues.—CBO assumes that the Attorney General would collect a fee of $100 for each application submitted by an alien for permanent or temporary residency under the legalization provisions in Title II. CBO estimates that 1.8 million aliens would apply for legal temporary residency—0.6 million in 1987 and 1.2 million in 1988. In 1988 through 1990, the 1.4 million aliens granted temporary residency would apply for permanent residency. The special agricultural workers would also apply for legalization during 1987 and 1988: an estimated 0.1 million in 1987 and 0.2 million in 1988. With a fee of $100 per application, CBO estimates that the govern-

ment would receive a total of $344 million over the four years from legalization application fees.

ESTIMATED BUDGET IMPACT—SPECIAL AGRICULTURAL WORKERS (FUNCTIONS 500, 550, 600, AND 650)

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
AFDC (function 600):					
Required budget authority	(1)	6	25	35	36
Estimated outlays	(1)	6	25	35	36
SSI (function 600):					
Required budget authority	(1)	(1)	16	20	23
Estimated outlays	(1)	(1)	16	20	23
Food stamps (function 600):					
Estimated authorization level	(1)	5	23	32	33
Estimated outlays	(1)	5	23	32	33
Unemployment compensaiton (function 600):					
Required budget authority					
Estimated outlays	5	39	59	61	61
Disability insurance (function 650):					
Required budget authority					
Estimated outlays	(1)	(1)	(1)	(1)	1
Medicaid (function 550):					
Required budget authority	(1)	5	35	50	53
Estimated outlays	(1)	5	35	50	53
Reimbursement of State public assistance costs (function 600):					
Estimated authorization level	(1)	12	59	84	88
Estimated outlays	(1)	12	59	84	88
Agricultural worker commission (function 500):					
Estimated authorization level	2	2	2	2	2
Estimated outlays	2	2	2	2	2
Subtotal: Direct spending provisions:					
Required budget authority	(1)	11	76	105	112
Estimated outlays	5	50	135	166	174
Subtotal: Amounts subject to appropriation action:					
Estimated authorization level	2	19	84	118	123
Estimated outlays	2	19	84	118	123
Total:					
Estimated authorization level/required budget authority	(1)	30	160	222	235
Estimated outlays	5	69	219	284	297

[1] Less than $0.5 million.

In addition, the bill allows the Secretary of Labor to impose a fee on employers importing temporary agricultural workers to recover the costs of processing applications for certification. It has not yet been determined whether the Secretary of Labor would impose such a fee and CBO is unable at this time to estimate how much money would be collected as a result of this fee. Also, the bill permanently exempts employers from paying Federal Unemployment Tax Act taxes on wages paid to H-2 agricultural workers. This provision has a negligible revenue effect.

Part B of Title I increases penalties for immigration-related violations and Part A outlines employer penalties for illegal employment of unauthorized aliens. No estimate can be made of the fines that would be collected by the federal government as a result of these sections.

In addition to the above effects on federal revenues, there are potential effects on individual income tax revenues and social insurance contributions. Revenues would increase if some of the aliens who are not having taxes withheld from their wages at present were to have taxes withheld as a result of this legislation. Revenues would decrease if aliens who currently have taxes withheld and are entitled to refunds that they do not claim would claim refunds as a result of this bill. Given the uncertainties concerning characteristics of illegal aliens, and rough estimates showing the two effects above to be approximately offsetting, CBO shows no effect of the bill on these revenue source.

ESTIMATED REVENUE EFFECT

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
Revenues from application fees	70	166	54	54	

6. Estimated cost to State and local governments: By legalizing certain unauthorized aliens currently residing in the United States, this bill could have sizable effects on state and local government budgets. Unauthorized aliens are not eligible for welfare programs that are partially- or fully-funded by states and localities. When legalized, these aliens would be eligible for such programs—immediately in the case of state programs and after five years in the case of programs financed by federal and state governments jointly. The special agricultural workers would be eligible for federal and state programs immediately. During the estimation period, however, states and localities would have no added costs under CBO's assumptions. They would, in fact, experience budgetary savings to the extent funds were appropriated to cover their public assistance, education, and imprisonment costs, as authorized in the bill. After 1991, however, when the public assistance and education reimbursements were no longer available, states and localities would experience increased costs.

As shown in the table, public assistance costs would be zero to the extent the authorized reimbursements covered them in full, as CBO has assumed. The full amounts of any reimbursements for education services are estimated to result in state and local savings. States were required to educate illegal alien children by the Supreme Court in Plyler vs. Doe (June 15, 1982). Finally, any reimbursements for costs of incarcerating illegal aliens currently borne by states and localities would also result in budgetary savings.

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
Public assistance					
Education assistance	−1	−63	−423	−653	−712
Assistance for imprisonment costs	−70	−90	−95	−100	−105
Total estimated State and local outlays	−71	−153	−518	−753	−817

A number of factors make these estimates uncertain. For purposes of this estimate, it is assumed that funds for reimbursements to states would be appropriated in full. If less than this amount were appropriated, states and localities would have lower savings or even experience budgetary costs. On the other hand, with a full appropriation, savings to states and localities would be higher than CBO has estimated. Certain current expenditures by states and localities would be covered under the grant: free health care provided to unauthorized aliens in public hospitals, assistance to Cuban and Haitian entrants, and any public assistance being received illegally by unauthorized aliens. However, CBO does not have sufficient information to estimate there potential savings.

In addition, other titles of the bill could affect state and local budgets. If the provisions of the bill that provide for employer sanctions and other means of reducing the flow of unauthorized aliens into the United States are effective, there would be some associated savings to state and local governments. For example, there would be fewer alien children to educate. The CBO cost estimate does not include such savings, given the uncertainties concerning flows of unauthorized aliens into the United States and the potential effectiveness of the bill's sanction provisions.

7. Estimate, comparison: None.

8. Previous CBO estimate: On August 20, 1985, CBO prepared a cost estimate for S. 1200, the Immigration Reform and Control Act of 1985, as ordered reported by the Senate Committee on the Judiciary, July 30, 1985. The estimated budget impact of S. 1200 is shown below:

[By fiscal year, in million of dollars]

	1986	1987	1988	1989	1999
Estimated net increase or decrease (−) in the deficit	−25	−99	−126	−341	−328

S. 1200 authorized total appropriations for the INS of $840 million in 1987 and $830 million in 1988. CBO's estimate of the impact of that authorization was the increase over the existing baseline funding level for INS. The Senate bill did not authorize appropriations for the Executive Office of Immigration Review.

The legalization provisions of H.R. 3810 and S. 1200 also differ significantly. First, in H.R. 3810, unauthorized aliens qualify for residence status if they arrived in the United States before January 1, 1982. In S. 1200, they qualify if they arrived before January 1, 1980. Consequently, the House bill would make more aliens eligible for resident status—1.4 million versus 0.6 million—and would result in higher outlays for state assistance and federally-funded income security and health programs. The House bill also legalizes unauthorized aliens who worked in agriculture between May 1, 1985 and May 1, 1986, adding another 0.25 million aliens who would receive federal program benefits immediately. Second, S. 1200 provides no education assistance to states. Third, S. 1200 precludes receipt of federal program benefits based on "financial need" for six years, instead of H.R. 3810's five years, and does not

except the aged and disabled or children, pregnant women, and medical emergencies from the prohibition on receipt of federal benefits. Fourth, S. 1200 authorizes a capped entitlement for payments to states of $300 million a year for the first two years and $600 million a year for the next four years, beginning with the year in which the application period ends, compared to authorization of full reimbursement for five years in H.R. 3810. Finally, S. 1200 slows the legalization process by an estimated two years by requiring a Legalization Commission to find that more effective enforcement measures had been instituted with adequate resources to curtail the entry and stay of unauthorized aliens before legalization could proceed.

9. Estimate prepared by: Janice Peskin, Marjorie Miller, Linda Radey, Paul Cullinan, Lynne Davidson, Julia Isaacs, and Anne Manley.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

Changes in Existing Law Made by the Bill, As Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, except as shown below, are shown in part 1 of this report, filed by the Committee on the Judiciary on July 16, 1986. The differences between the bill as reported by the Committee and as reported by the Committee on the Judiciary are shown below using the following typographical devices (with "Judiciary" referring to the Committee on the Judiciary and "W&M" referring to the Committee on Ways and Means):

Existing law—

in which no change is proposed by Judiciary or W&M, printed in roman.

proposed to be omitted by both Judiciary and W&M, enclosed in black brackets, viz., [ ].

proposed to be omitted only by the Judiciary (and not by W&M), printed in ~~linetype~~.

proposed to be omitted only by W&M (and not by Judiciary), enclosed in black parentheses, viz., ( ).

New matter—

proposed to be inserted by both Jucciary and W&M, printed in *italic*.

proposed to be inserted only by Judiciary (and not by W&M), printed in ~~*italic linetype*~~.

proposed to be inserted only by W&M (and not by Judiciary), printed in **boldface roman**.

Immigration and Nationality Act

* * * * * * *

TITLE II—IMMIGRATION

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CHAPTER 5—DEPORTATION; ADJUSTMENT OF STATUS

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ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1982, TO THAT OF PERSON ADMITTED FOR LAWFUL RESIDENCE

SEC. 245A. (a) * * *

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(h) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING CERTAIN PUBLIC WELFARE ASSISTANCE.—

(1) IN GENERAL.—During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law—

(A) except as provided in paragraph (2), the alien is not eligible for—

(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government **(but in any event including the program of aid to families with dependent children under part A of title IV of the Social Security Act),**

(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and

(iii) assistance under the Food Stamp Act of 1977; and

(B) a State or political subdivision therein may, to the extent consistent with subparagraph (A), provide that the alien is not eligible for the programs of financial assistance or for medical assistance described in subparagraph (A)(ii) furnished under the law of that State or political subdivision.

(2) EXCEPTIONS.—Paragraph (1) shall not apply—

(A) to a Cuban and Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422, as in effect on April 1, 1983),

(B) in the case of assistance **(other than aid to families with dependent children) which is** *furnished to an alien who is an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act), or*

(C) in the case of medical assistance (i) for care and services provided to an alien who is under 18 years of age, (ii) for emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act) or (iii) for services described in section 1916(a)(2)(B) of such Act (relating to services for pregnant women).

(3) TREATMENT OF CERTAIN PROGRAMS.—Assistance furnished under any of the following provisions of law shall not be construed to be financial assistance described in paragraph (1)(A)(i):

(A) The National School Lunch Act.
(B) The Child Nutrition Act of 1966.
(C) The Vocational Education Act of 1963.
(D) Chapter 1 of the Education Consolidation and Improvement Act of 1981.
(E) The Headstart-Follow Through Act.
(F) The Job Training Partnership Act.
(G) Subparts 4 and 5 of part A of title IV of the Higher Education Act of 1965.
(H) The Public Health Service Act.
~~*(I) Title V of the Social Security Act.*~~
(I) Titles V, XVI, and XX, and parts B, D, and E of title IV, of the Social Security Act (and titles I, X, XIV, and XVI of such Act as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972).

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CHAPTER 8—GENERAL PENALTY PROVISIONS

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UNLAWFUL EMPLOYMENT OF ALIENS

*SEC. 274A. (a) * * **

(b) EMPLOYMENT VERIFICATION SYSTEM.—The requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, the requirements specified in the following three paragraphs ~~*(and, to the extent applicable, paragraph (7)(C))*~~*:*

(1) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION ~~*AND VALIDATION OF SOCIAL SECURITY ACCOUNT NUMBER*~~*.*

(A) IN GENERAL.—The person or entity must attest, under penalty of perjury and on a form established or designated by the Attorney General by regulation, that he has verified that the individual is eligible to be employed (or recruited or referred for employment) ~~*in the United States—*~~

~~*(i) by examining—*~~

~~*(I) the individual's United States passport, or the individual's unexpired foreign passport, if the foreign passport has an appropriate, unexpired endorsement of the Attorney General authorizing the individual's employment in the United States, or*~~

~~*(II) a document described in subparagraph (B) and a document described in subparagraph (C); and*~~

~~*(ii) by validating (to the extent and in the manner required under paragraph (7)(C)) the social security account number presented by the individual.*~~

in the United States by examining—

(i) the individual's United States passport, or the individual's unexpired foreign passport if the foreign passport has an appropriate, unexpired endorsement

of the Attorney General authorizing the individual's employment in the United States, or

(ii) a document described in subparagraph (B) and a document described in subparagraph (C).

A person or entity has complied with the requirement of ~~clause (i) of this subparagraph~~ **the preceding sentence** *with respect to examination of a document if the document reasonably appears on its face to be genuine. If an individual provides a document or combination of documents that reasonably appears on its face to be genuine and that is sufficient to meet the requirements of ~~clause (i),~~* **such sentence,** *nothing in this paragraph shall be construed as requiring the person or entity to solicit the production of any other document or as requiring the individual to produce such a document.*

* * * * * * *

~~*(7) SOCIAL SECURITY ACCOUNT NUMBER VALIDATION SYSTEM.—*~~

~~*(A) ESTABLISHMENT OF SYSTEM.—The Attorney General, in cooperation with the Secretaries of Labor and Health and Human Services, shall establish a method to validate the social security account numbers of individuals applying to be hired, or recruited or referred for a fee, for employment in the United States.*~~

~~*(B) PUBLICATION.—The Attorney General shall provide for publication in the Federal Register of notice of the establishment of the validation method and the procedures for its use not earlier than 6 months, and not later than 18 months, after the date of the enactment of this section.*~~

~~*(C) IMPLEMENTATION.—Beginning on an effective date (not earlier than 90 days, and not later than 180 days, after the date final regulations are published under subparagraph (B)) set forth by the Attorney General, in order to comply with the requirement of paragraph (1)(A) of this subsection in the case of a person or other entity hiring, or recruiting or referring for a fee, an individual for employment in the United States, the person or other entity must, pursuant to the verification method—*~~

~~*(i) submit the social security account number of the individual, and*~~

~~*(ii) be provided and record on the form designated or established for purposes of that paragraph a validation code indicating that the number submitted is valid.*~~

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SOCIAL SECURITY ACT

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TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES [1]

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PART A—AID TO FAMILIES WITH DEPENDENT CHILDREN

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STATE PLANS FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN

SEC. 402. (a) * * *

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(f)(1) For temporary disqualification of certain newly legalized aliens from receiving aid to families with dependent children, see subsection (h) of section 245A of the Immigration and Nationality Act.

(2) In any case where an alien disqualified from receiving aid under such subsection (h) is the parent of a child who is not so disqualified and who (without any adjustment of status under such section 245A) is considered a dependent child under subsection (a)(33), or is the brother or sister of such a child, subsection (a)(38) shall not apply, and the needs of such alien shall not be taken into account in making the determination under subsection (a)(7) with respect to such child, but the income of such alien (if he or she is the parent of such child) shall be included in making such determination to the same extent that income of a stepparent is included under subsection (a)(31).

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PART E—FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

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FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

SEC. 472. (a) * * *

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In any case where the child is an alien disqualified under section 245A(h) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements of paragraph (4) (and the corresponding requirements of section 473(a)(1)(B)), with respect to that month, if he or she would have satisfied such requirements but for such disqualification.

* * * * * * *

ADOPTION ASSISTANCE PROGRAM

SEC. 473. (a)(1) * * *

The last sentence of section 472(a) shall apply, for purposes of subparagraph (B), in any case where the child is an alien described in that sentence.

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TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

* * * * * * *

PART B—PROCEDURAL AND GENERAL PROVISIONS

PAYMENTS AND PROCEDURES

Payment of Benefits

SEC. 1631. (a) * * *

* * * * * * *

Applications and Furnishing of Information

(e)(1)(A) The Secretary shall, subject to subparagraph (B), prescribe such requirements with respect to the filing of applications, the suspension or termination of assistance, the furnishing of other data and material, and the reporting of events and changes in circumstances, as may be necessary for the effective and efficient administration of this title.

(B) The requirements prescribed by the Secretary pursuant to subparagraph (A) shall require that eligibility for benefits under this title will not be determined solely on the basis of declarations by the applicant concerning eligibility factors or other relevant facts, and that relevant information will be verified from independent or collateral sources and additional information obtained as necessary in order to assure that such benefits are only provided to eligible individuals (or eligible spouses) and that the amounts of such benefits are correct. For this purpose and for purposes of federally administered supplementary payments of the type described in section 1616(a) of this Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), the Secretary shall, as may be necessary, request and utilize information available pursuant to section 6103(1)(7) of the Internal Revenue Code of 1954, and any information which may be available from State systems under section 1137 of this Act, and shall comply with the requirements applicable to States (with respect to information available pursuant to section 6103(1)(7)(B) of such code) under subsections (a)(6) ~~and (c), (e), and (d)~~ of such section 1137.

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Internal Revenue Code of 1954

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Subtitle C—Employment Taxes and Collection of Income Tax at Source

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CHAPTER 23—FEDERAL UNEMPLOYMENT TAX ACT

Sec. 3301. Rate of tax.
Sec. 3302. Credits against tax.
Sec. 3303. Conditions of additional credit allowance.
Sec. 3304. Approval of State laws.
Sec. 3305. Applicability of State law.
Sec. 3306. Definitions.
Sec. 3307. Deductions as constructive payments.

SEC. 3231(i) * * *

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SEC. 3306. DEFINITIONS. * * *

* * * * * * *

(c) EMPLOYMENT—For purposes of this chapter, the term "employment" means any service performed prior to 1955, which was employment for purposes of subchapter C of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and (A) any service, of whatever nature, performed after 1954 by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, and (B) any service, of whatever nature, performed after 1971 outside the United States (except in a contiguous country with which the United States has an agreement relating to unemployment compensation) by a citizen of the United States as an employee of an American employer (as defined in subsection (j)(3)), except—

(1) agricultural labor (as defined in subsection (k)) unless—

(A) such labor is performed for a person who—

(i) during any calendar quarter in the calendar year or the preceding calendar year paid remuneration in cash of $20,000 or more to individuals employed in agricultural labor (including labor performed by an alien referred to in subparagraph (B)), or

(ii) on each of some 20 days during the calendar year or the preceding calendar year, each day being in a different calendar week, employed in agricultural labor (including labor performed by an alien referred to in subparagraph (B)) for some portion of the day (whether or not at the same moment of time) 10 or more individuals; and

(B) such labor is not agricultural labor performed [before January 1, 1988,] before January 1, 1993, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act;

* * * * * * *

V. DISSENTING VIEWS ON H.R. 3810 OF HON. JOHN J. DUNCAN, HON. BILL ARCHER, HON. GUY VANDER JAGT, HON. PHILIP M. CRANE, HON. BILL FRENZEL, HON. RICHARD T. SCHULZE, HON. BILL GRADISON, HON. CARROLL A. CAMPBELL, HON. WILLIAM M. THOMAS, HON. RAYMOND J. McGRATH, HON. HAL DAUB, AND HON. JUDD GREGG

The action taken by this Committee on H.R. 3810 leaves a lot to be desired. We take particular exception to allowing preferential treatment, with regard to eligibility for public assistance benefits, to a special category of aliens: Special Agricultural Workers (SAWS).

The general rule established in H.R. 3810 is that aliens granted amnesty and temporary legal resident status are disqualified for five years from AFDC eligibility. However, no comparable disqualification applies to SAWS. Far from it! SAWS may acquire this preferential treatment by showing that they had performed 60 man-days of seasonal agricultural services within the 12 months ending May 1, 1986. A man-day is not defined in H.R. 3810. Under federal law a man-day is defined as working one hour. Therefore, any SAW who works 60 hours a year technically could qualify for a wide range of benefits. This discriminatory effect poses a real problem for Members concerned about equity and fairness in such legislation.

There are at least two other questions which the Committee should have explored more carefully and should have been more assertive about in the amending process. The first concerns which public assistance programs should be subject to a five-year disqualification. The Committee would make AFDC subject to disqualification, but not SSI, Foster Care and Adoption Assistance, Child Welfare Services, Child Support Enforcement and/or Title XX Social Services. There should have been more discussion of, and attention paid, to whether some or all of these other public assistance programs should be given the same treatment as AFDC. It is true, of course, that AFDC is where the big money lies, but that has little or nothing to do with equity and fairness.

A second question concerns the Committee's acquiescence in allowing SAWS to be eligible for public assistance benefits with *no* disqualification period. At a minimum, SAWS should observe the same five-year period of disqualification as applies to other aliens granted temporary resident status in H.R. 3810.

It could appear that Ways and Means cowered before the claim of the other Committee that H.R. 3810 was such a fragile compromise that we should not apply any independent judgement to the provisions which are clearly and undeniably invasions of our jurisdiction. We hope that, at some point in the consideration of H.R. 3810, the Congress will be able to fully and freely consider H.R. 3810 without being bound by some deal made by a few Members of

one Committee which lacked jurisdiction over the subject matter in the first place.

JOHN J. DUNCAN.
BILL ARCHER.
GUY VANDER JAGT.
PHIL CRANE.
BILL FRENZEL.
DICK SCHULZE.
BILL GRADISON.
CARROLL CAMPBELL.
BILL THOMAS.
RAY MCGRATH.
HAL DAUB.
JUDD GREGG.

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